

## REMARKS

Claims 1-44 are pending in the subject application and claims 43-44 are withdrawn from consideration. Claims 4, 7, 8, 11-13, 26 and 38 have been amended and claim 32 has been canceled. In view of the preceding amendments and following remarks, applicants respectfully request reconsideration and withdrawal of the various grounds for rejection of the claims set forth in the November 21, 2003 Office Action.

In the November 21, 2003 Office Action, the Examiner rejected claims 1-13, 19-21, 24, 35-39, 41 and 42 under the judicially created doctrine of obviousness-type double patenting over U.S. Patent 5,789,555 ("the '555 patent"). The Examiner stated that although the claims are not identical, they are allegedly not patentably distinct because the claims of both the patent and the subject application are directed to a composition comprising a metal, a support surface, and a conjugate comprising a ligand and a targeting molecule.

Applicants respectfully traverse this ground for rejection. The claims of U.S. Patent 5,789,555 require a linking group bound to the solid support, and the conjugate is coupled to the linking group. In contrast, the claims in the subject application do not require a linking group between the metal support and the conjugate. Furthermore, there is no teaching or suggestion in the '555 patent to provide a conjugate bound to the solid support without a linking group. All of the examples and discussion of the invention in the '555 patent describe a maleimide or other linking group bound to the solid support, and the conjugate is always described as being coupled to the linking group. Thus, it would not have been obvious from the '555 patent to make a composition comprising a metal support and a conjugate *releasably bound to the metal support*

*surface*, as in applicants' claimed invention. Accordingly, applicants respectfully request reconsideration and withdrawal of this rejection.

The Examiner rejected claims 1, 2, 4, 7-13, 26-34, 38, 41 and 42 under 35 U.S.C. §112, second paragraph. The Examiner alleged that claims 1, 2, 4, 7, 8, 11-13, 27 and 38, are ambiguous because of the use of the phrase "small organic molecules", and in particular the term "small".

Applicants note that claims 1 and 2 do not recite the terms to which the Examiner objected. Applicants have hereinabove amended claims 4, 8, 11-13 and 38 to eliminate the word "small" and to define the organic molecule as having a molecular weight of less than about 600 Daltons. Support for this may be found in the specification at page 8, line 28. Applicants maintain that with this amendment, the claims now clearly and distinctly define the invention. Accordingly, applicants respectfully request reconsideration and withdrawal of this ground for rejection.

The Examiner also alleged that claims 1, 2, 7-10, 27, 38 and 41, are ambiguous because of the term "derivative". Again, Applicants note that claims 1 and 2 do not recite the term to which the Examiner objected. Applicants respectfully traverse this ground for rejection. Applicants maintain that the specification provides ample description of useful derivatives so that one skilled in the art would understand what is claimed. For example, derivatives are described on page 5, lines 1-6 and lines 20-26; page 8, line 30-page 9, line 3. In particular, preferred derivatives are described as derivatives having a sulfur or phosphorus group, or an atom with similar binding properties, which releasably binds to the support (see, e.g., page 8, line 30-page 9, line 3 and page 9, lines 19-21). Thus, the term "derivative" may be clearly understood by reference to the specification, and the claims clearly and distinctly define the

invention. Accordingly, applicants respectfully request reconsideration and withdrawal of this ground for rejection.

The Examiner alleged that claims 26-34 are ambiguous because it is unclear what disease, disorder or abnormal physical state the claims are directed to. Applicants have canceled claim 32 and amended claim 26 to incorporate the recitation from claim 32 of the particular types of diseases to which the invention is applicable. Applicants maintain that this amendment overcomes the Examiner's ground for rejection, and respectfully request reconsideration and withdrawal of this ground for rejection.

Applicants gratefully acknowledge the allowability of claims 14-18, 22, 23, 25 and 40. Applicants maintain that the remaining claims are now also in condition for allowance. Favorable consideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited.

No additional fee is required. If there any such fees, please charge them to our firm Deposit Account No. 50-0540.

Respectfully submitted,

March 10, 2004

By: W. Scott McNeas  
Donald Rhoads, Reg. No. 34,705  
W. Scott McNeas, Reg. No. 33,964  
Attorney for Applicants  
KRAMER LEVIN NAFTALIS & FRANKEL LLP  
919 Third Avenue  
New York, New York 10022  
(212) 715-9100 (phone)  
(212) 715-8000 (fax)